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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/518,205

08/04/2005

Peter Eduard Neerinx

ARSI-006

3209

66061 7590 02/03/2009
MEADWESTVACO CORPORATION
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EXAMINER

NICHOLS II, ROBERT K

ART UNIT

PAPER NUMBER

3754

NOTIFICATION DATE

DELIVERY MODE

02/03/2009

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketadministrator@mwv.com

Office Action Summary	Application No. 10/518,205	Applicant(s) NEERINCX ET AL.	
	Examiner ROBERT K. NICHOLS II	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 November 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 and 22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 and 22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Species A and Subspecies I drawn to claims 1-20 and 22 in the reply filed on 11/10/2008 is acknowledged.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

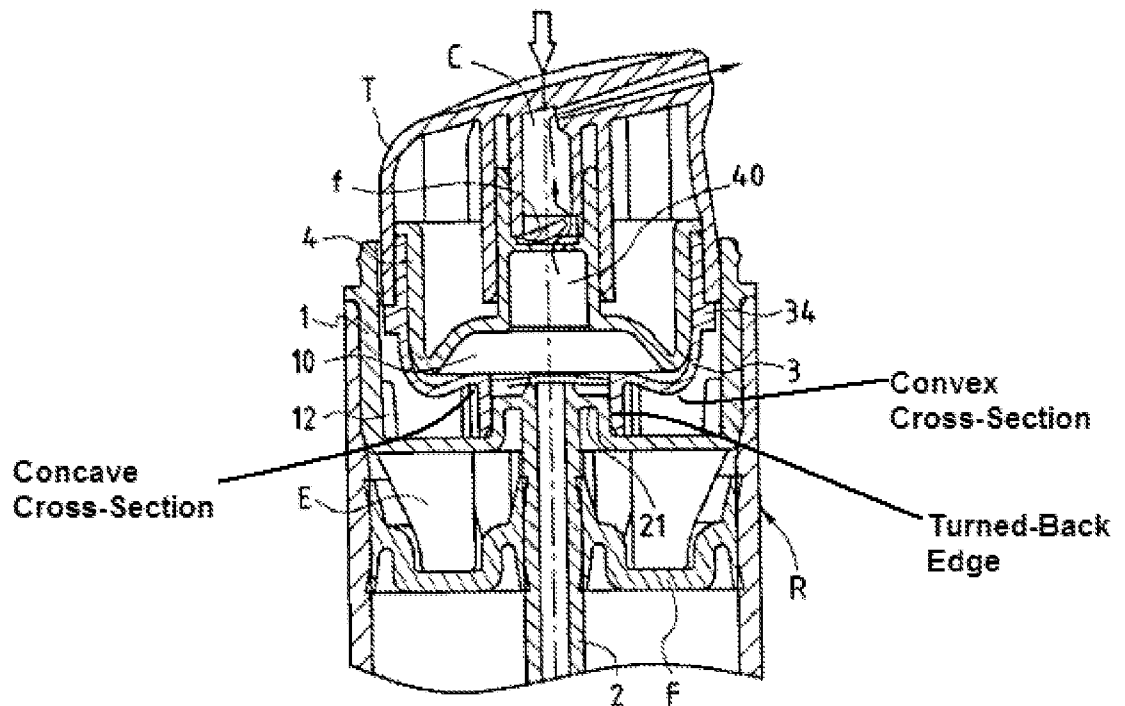
(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-16, 18-20 and 22 are rejected under 35 U.S.C. 102(e) as being anticipated by Rossignol (US 2003/0132252).

Regarding claims 1 and 2, Rossignol discloses an assembly, including a bellows part with a flexible wall 3 of a predetermined shape and thickness which co-operates with a co-acting part 4, which includes a stiff outer wall along which the flexible wall 3 is movable, wherein the co-acting part has a predetermined diameter variation. Rossignol further discloses the flexible wall 3 has a predetermined thickness variation (see figure 1A). It is noted that the device Rossignol or any bellows assembly will have predetermined properties i.e. a

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“predetermined shape,” and “predetermined thickness variation” being the shape or thickness established in advance, prior to manufacturing or production.



Marked-up Figure 2

Regarding claim 3, Rossignol discloses the flexible wall 3 being partially turned back and wherein a turned-back edge is arranged on an outer end thereof (see marked-up figure 2).

Regarding claim 6, Rossignol discloses an outer end of the co-acting part being conical (see figure 1A).

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Regarding claim 7, Rossignol discloses the outer wall of the flexible wall 3 includes a thickened portion 34 (see figure 1A).

Regarding claim 8, Rossignol discloses the outer wall of the flexible wall 3 includes a bend (see figure 1A).

Regarding claim 9, Rossignol discloses the outer wall of the flexible wall 3 includes a part of concave cross-section (see marked-up figure 2).

Regarding claim 10, Rossignol discloses the outer end of the flexible wall 3 includes a part of convex cross-section (see marked-up figure 2).

With further respect to claims 2, 3, 7, 9 and 10, and regarding claims 4, 5 and 11, It is noted that a claim containing a "recitation with respect to the manner in which a claimed apparatus is intended to be employed does not differentiate the claimed apparatus from a prior art apparatus" if the prior art apparatus teaches all the structural limitations of the claim. Ex parte Masham, 2 USPQ2d 1647 (Bd. Pat. App & Inter. 1987).

Regarding claim 12, Rossignol discloses the bellows part includes a material selected from the group consisting of a thermoplastic polymer and an elastomer (see paragraph 32).

Regarding claim 13, Rossignol discloses the flexible wall 3 of the bellows part is substantially cylindrical (see figure 1A).

Regarding claim 14, Rossignol discloses the wall of the bellows part includes a substantially convex cross-section (see marked-up figure 2).

Regarding claim 15, Rossignol discloses the bellows part includes at least one of an integrated pressure valve and an integrated suction valve (see paragraphs 32, 33 and paragraph 46).

Regarding claim 16, Rossignol discloses the integrated suction valve includes three legs 32 which are connected to the flexible wall 3 (see figure 1B and paragraph 35).

Regarding claim 18, Rossignol discloses the suction valve includes a guide protrusion 31 for guiding the suction valve (see paragraph 33).

Regarding claim 19, Rossignol discloses the integrated pressure valve (f) is a cylindrical flexible wall (see paragraph 46).

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Regarding claim 20, Rossignol discloses a pump (p), includes the assembly (see paragraph 30).

The method step of claim 22, i.e. rolling and unrolling the bellows part over at least a portion of the co-acting part is inherently performed when the Rossignol device is used (see figures 2-4).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Rossignol (US 2003/0132252) in view of Santagiuliana (US 6,715,649).

Regarding claim 17, Rossignol discloses all the elements of the claimed invention except the legs being Z-shaped.

Santagiuliana teaches a delivery pump having a suction valve including three legs or tags 20 being Z-shaped allowing the central portion 21 of the valve to rise during the liquid suction phase (see figure 3).

Thus, one of ordinary skill in the art would recognize that the known option of forming the legs being Z-shaped involves only routine skill in the art, for the predictable result of allowing valve displacement during the liquid suction phase.

Response to Arguments

Applicant's arguments submitted under "Remarks" in the response filed on 06/23/2008 have been fully considered but are moot in view of the new rejections made in this action.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Law et al. (US 7,367,476), Thor et al. (US 4,394,939), Jupin et al. (US 4,809,887), Ball (US 4,892,231), Schneider (US 4,949,876) and Stoffler et al. (US 4,771,925) show other devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/R. K. N./
Examiner, Art Unit 3754

/Kevin P. Shaver/
Supervisory Patent Examiner, Art
Unit 3754